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Accenture/Finnegan, Henderson,  
Farabow, Garrett & Dunner, LLP  
901 New York Avenue  
Washington, DC 20001-4413

EXAMINER
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DURAN, ARTHUR D

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3622

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ELECTRONIC

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3  
4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES  
6

7  
8 *Ex parte* MICHAEL G. MIKURAK  
9

10  
11 Appeal 2010-000340  
12 Application 09/444,774  
13 Technology Center 3600  
14

15  
16 Before ANTON W. FETTING, JOSEPH A. FISCHETTI, and  
17 BIBHU R. MOHANTY, *Administrative Patent Judges*.  
18 FETTING, *Administrative Patent Judge*.

19 DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE<sup>2</sup>

Michael G. Mikurak (Appellant) seeks review under 35 U.S.C. § 134 (2002) of a final rejection of claims 70, 74-76, 82-87, 90-93, 99-104, 107-109, and 112-115, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The Appellant invented software for interacting with a user to increase visibility during installation management in an e-commerce environment. Specification 1: Field of the Invention.

An understanding of the invention can be derived from a reading of exemplary claim 70, which is reproduced below [bracketed matter and some paragraphing added].

70. A method for a framework manager to provide installation management of a service in a network-based supply chain framework between at least two independent business entity users such as service providers, vendors, resellers, manufacturers and the like, the method comprising:

[1] causing a framework manager using a network to:

(a) receive information via the network

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<sup>2</sup> Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed May 18, 2009) and Reply Brief ("Reply Br.," filed September 8, 2009), and the Examiner's Answer ("Ans.," mailed July 8, 2009).

1 including information relating to a service  
2 provided by a service provider from the service  
3 provider;

4 (b) receive information via the network

5 including information relating to manufacturer  
6 offerings by a manufacturer from the  
7 manufacturer;

8 (c) use and evaluate the information provided by

9 the service provider via the network and  
10 the manufacturer

11 to match

12 the service to  
13 the offerings,

14 evaluating factors that include

15 cost and service provider requirements,  
16 speed of time to site integration,  
17 speed of acquisition,  
18 duplication reduction,  
19 procurement rationalization,  
20 transportation rationalization, and  
21 reduced inventories; and

22 (d) use the service and manufacturer offerings  
23 information

24 to manage installations

25 through the use of a collaborative planning tool

26 which facilitates the transfer of

27 the information received from the  
28 service provider and

29 the information received from the  
30 manufacturer;

1 [2] wherein the framework manager provides installation  
2 management  
3 between the manufacturer and the service provider  
4 by facilitating the selection and installation of the service  
5 for both matched business entity users.

6 The Examiner relies upon the following prior art:

Gerace	US 5,991,735	Nov. 23, 1999
Webber, Jr.	US 6,167,378	Dec. 26, 2000
Whipple	US 6,289,385 B1	Sep. 11, 2001
Abgrall	US 6,373,498 B1	Apr. 16, 2002

7 Claims 70, 73-81, 87, 90-98, 104, and 107-111 stand rejected under 35  
8 U.S.C. § 103(a) as unpatentable over Webber and Whipple.

9 Claims 82-84, 86, 99-101, 103, and 112-115 stand rejected under 35  
10 U.S.C. § 103(a) as unpatentable over Webber, Whipple, and Abgrall.

11 Claims 85 and 102 stand rejected under 35 U.S.C. § 103(a) as  
12 unpatentable over Webber, Whipple, Abgrall, and Gerace.

13

## 14 ISSUES

15 The issues of obviousness turn on whether the art describes matching a  
16 product to a service as recited in limitation [1](c).

## 17 FACTS PERTINENT TO THE ISSUES

18 The following enumerated Findings of Fact (FF) are believed to be  
19 supported by a preponderance of the evidence.

1

2 *Facts Related to the Prior Art*

3 *Webber*

4 01. Webber is directed to digital automation of transaction spaces.  
5 Webber 1:6-7.

6 *Whipple*

7 02. Whipple is directed to creating an object workspace for supply  
8 chains. Whipple 1:28-31.

9

10 ANALYSIS

11 We are persuaded by the Appellant's argument that the art fails to  
12 describe the limitation in claim 70 [1] (c), also present in the other 2  
13 independent claims 87 and 104, to use and evaluate the information provided  
14 by the service provider via the network and the manufacturer to match the  
15 service to the offerings. Appeal Br. 10-13; Reply Br. 3-4. As the Appellant  
16 contends, this requires the goods in limitation [1](b) to be matched to the  
17 service in limitation [1](a).

18 The Examiner simply found that art described making a match. Ans. 19.  
19 While Webber clearly matches buyers and sellers, none of the portions cited  
20 by the Examiner describe matching a product to a service, and we have  
21 found no such description elsewhere in Webber.

22

CONCLUSIONS OF LAW

The rejection of claims 70, 73-81, 87, 90-98, 104, and 107-111 under 35 U.S.C. § 103(a) as unpatentable over Webber and Whipple is improper.

The rejection of claims 82-84, 86, 99-101, 103, and 112-115 under 35 U.S.C. § 103(a) as unpatentable over Webber, Whipple, and Abgrall is improper.

The rejection of claims 85 and 102 under 35 U.S.C. § 103(a) as unpatentable over Webber, Whipple, Abgrall, and Gerace is improper.

DECISION

To summarize, our decision is as follows.

- The rejection of claims 70, 73-81, 87, 90-98, 104, and 107-111 under 35 U.S.C. § 103(a) as unpatentable over Webber and Whipple is not sustained.
- The rejection of claims 82-84, 86, 99-101, 103, and 112-115 under 35 U.S.C. § 103(a) as unpatentable over Webber, Whipple, and Abgrall is not sustained.
- The rejection of claims 85 and 102 under 35 U.S.C. § 103(a) as unpatentable over Webber, Whipple, Abgrall, and Gerace is not sustained.

REVERSED

Appeal 2010-000340  
Application 09/444,774

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